

ORIGINAL



0000050952

RECEIVED

FENNEMORE CRAIG, P.C. 2006 JUN -21 P 4: 37
Jay L. Shapiro
Patrick J. Black
3003 N. Central Ave.
Suite 2600
Phoenix, Arizona 85012

AZ CORP COMMISSION
DOCUMENT CONTROL

Attorneys for Black Mountain Sewer Corporation

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE
APPLICATION OF BLACK
MOUNTAIN SEWER
CORPORATION, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE FAIR
VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR
INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICE
BASED THEREON

DOCKET NO: SW-02361A-05-0657

**MOTION TO STRIKE AFFIDAVIT OF
M. M. SCHIRTZINGER, P.E.**

Applicant, Black Mountain Sewer Corporation ("BMSC"), hereby files this Motion to Strike the Affidavit of Intervenor Mr. M. M. Schirtzinger, dated May 31, 2006. Mr. Schirtzinger's affidavit is untimely filed. The last date an intervenor could have prefled testimony in this docket was May 4, 2006, the deadline for surrebuttal testimony in this case. BMSC first received Mr. Schirtzinger's affidavit on Friday, June 2, 2006, just three business days before the commencement of hearings on the Company's Application.

Given such timing, it would be prejudicial to allow Mr. Schirtzinger to now offer testimony or submit his affidavit as evidence in this proceeding. This is especially true given the highly technical nature of Mr. Schirtzinger's assertions. However, BMSC would have no objection to Mr. Schirtzinger's affidavit being accepted as Public Comment.

...

1 DATED this 2ND day of June, 2006.

2 FENNEMORE CRAIG, P.C.

3
4 By _____

Jay L. Shapiro
Patrick J. Black
3003 North Central Avenue
Suite 2600
Phoenix, Arizona 85012
Attorneys for Black Mountain
Sewer Corporation

5
6
7
8
9
10 ORIGINAL and thirteen (13) copies of the
11 foregoing were delivered
12 this 2nd day of June, 2006, to:

13 Docket Control
14 Arizona Corporation Commission
15 1200 W. Washington St.
16 Phoenix, AZ 85007

17 COPIES hand delivered this _____
18 this 2nd day of June, 2006, to:

19 Teena Wolfe
20 Administrative Law Judge
21 Arizona Corporation Commission
22 1200 W. Washington St.
23 Phoenix, AZ 85007

24 Keith Layton
25 Staff Counsel
26 Legal Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Daniel Pozefsky, Attorney
Residential Utility Consumer Office
1110 W. Washington, Suite 220
Phoenix, AZ 85007

1 And COPIES mailed
this 2nd day of June, 2006, to:

2 Boulders Homeowners Association
3 Mr. Robert E. Williams
4 P. O. Box 2037
Carefree, AZ 85377

5 M. M. Shirtzinger
6 34773 N. Indian Camp Trail
Scottsdale, AZ 85262

7 Thomas K. Chenal, Esq.
8 David Garbarino, Esq.
9 Mohr, Hackett, Pederson, Blakley & Randolph
7047 E. Greenway Parkway, Suite 155
Scottsdale, AZ 85254

10 By: Maria San Jose
11 1801025